

Joint Standing Committee on Natural Resources

LD 80

An Act to Protect Internal Waters of the State

INDEF PP

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
PAUL	OTP-AM	

LD 80 proposed to add the criteria of environmental concerns, wildlife habitat, boat speed and traditional uses to the criteria that must be considered by the Commissioner of Inland Fisheries and Wildlife in developing rules governing the horsepower of motorboats on inland waters.

Committee Amendment "A" (H-805) proposed to establish the Lakes Assessment and Protection Program within the Department of Environmental Protection. In implementing the program, the Commissioner of Environmental Protection would conduct activities including education and technical assistance, resource monitoring and research and compliance monitoring and enforcement. In establishing priorities for these activities, the commissioner would consider the recommendations of the Great Pond Task Force and the priorities established by the Land and Water Resources Council.

The amendment also proposed to appropriate \$451,516 from the General Fund to provide funds for 4 positions and support costs to carry out the Lakes Assessment and Protection Program. This amendment was not adopted, but it was incorporated into the supplemental budget bill (Public Law 1997, chapter 643).

LD 660

Resolve, Requiring the Department of Environmental Protection to Study Alternative Fuels

PUBLIC 791

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TRIPP	OTP-AM MAJ	H-1037
CAREY	OTP-AM MIN	S-783 TREAT

LD 660 proposed to provide that a state or federal authority may not mandate any fuel for use, nor prohibit the sale of any fuel that is sold in any other state of the United States. It proposed to require sellers of gasoline or fuel to post material safety data sheets revealing all known chemical components of those fuels.

It also proposed to prohibit a state or federal authority from implementing any automobile testing policy, process or program without state legislative approval, and it proposed to provide that no aspect of Section 7545(k) of the federal Clean Air Act may be implemented in the State without state legislative approval.

It proposed to require that all money collected by the State on behalf of the Federal Government be placed in an escrow account and withheld until the total cumulative amount withheld from the Federal Government equals the total amount of any financial sanctions, penalties or withholding of funds.

The bill also proposed to instruct the Governor, state representatives, members of the judiciary, constitutional officers and state employees to resign if they fail or refuse to implement the requirements of the bill.

Committee Amendment "A" (H-1037), the majority report of the Joint Standing Committee on Natural Resources, proposed to replace the bill and change the title. The amendment proposed to require the Commissioner of Environmental Protection to evaluate and make recommendations regarding alternative fuels that would meet the requirements in the federal Clean Air Act for a 15% rate of progress plan for the reduction of volatile organic compound emissions. The amendment proposed to require the commissioner to submit an interim report to the joint standing committee of the Legislature having jurisdiction over natural resource matters by January 15, 1999 and a final report by January 15, 2000. The amendment proposed to require the commissioner to hold at least one public hearing prior to developing the interim report.

The amendment also proposed to appropriate \$7,250 to the Department of Environmental Protection to conduct the study of alternative fuels and proposed to add a fiscal note.

Committee Amendment "B" (H-1038), the minority report of the Joint Standing Committee on Natural Resources, proposed to add a fiscal note to the bill. This amendment was not adopted.

Committee of Conference Amendment "B" to Committee Amendment "A" (S-783), the report of the Committee of Conference, proposed to provide a sales tax exemption for a portion of the sales or lease price of a clean fuel vehicle and an income tax credit for a portion of expenditures to modify filling stations to provide clean fuel. It also proposed to direct the Commissioner of Environmental Protection to evaluate the effectiveness of low emission vehicle incentives and to develop recommendations regarding alternative fuels to reformulated gasoline with methyl tertiary butyl ether. The amendment proposed to strike the General Fund appropriation of \$7,250 in fiscal year 1998-99 for the Department of Environmental Protection to study alternative fuels.

Enacted law summary

Public Law 1997, chapter 791 provides a sales tax exemption for a portion of the sale or lease price of a clean fuel vehicle and an income tax credit for a portion of expenditures to construct or modify filling stations to provide clean fuel. It also directs the Commissioner of Environmental Protection to evaluate the effectiveness of low emission vehicle incentives and to develop recommendations regarding alternative fuels to reformulated gasoline with methyl tertiary butyl ether.

LD 1730 An Act to Implement the Recommendations of the Great Pond Task Force PUBLIC 739

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TREAT	OTP-AM A	S-600
COWGER	OTP-AM B	S-686 KILKELLY
	OTP-AM C	S-691 KILKELLY
	ONTP D	

LD 1730 was carried over by the Joint Standing Committee on Natural Resources and was re-referred during the Second Regular Session as a joint referral to the Joint Standing Committee on Inland Fisheries and Wildlife and the Joint Standing Committee on Natural Resource.

LD 1730 proposed to implement the recommendations of the Great Ponds Task Force by:

1. Establishing the Lakes Heritage Trust Fund in the Executive Department to protect, preserve and enhance the quality and value of the State's great ponds. The fund was to be administered by the Land and Water Resources Council and the council authorized to accept monetary contributions into the fund. The fund was to be capitalized in part from 2 revenue sources proposed in the bill: a one-time registration fee for motorless watercraft and an annual \$10 water quality impact fee assessed on residential dwellings on lots within the watershed of a great pond.
2. Redefining the term "personal watercraft" to include jet propelled watercraft 14 feet or less in length.
3. Directing the Commissioner of Inland Fisheries and Wildlife to adopt rules governing the use, operation and type of watercraft that may be used on great ponds less than 200 acres in surface area and requires the commissioner to consider potential wildlife impacts, environmental values, including noise, and the traditional uses of a water body when adopting rules governing the horsepower, use, operation or type of watercraft allowed on a water body.
4. Increasing the registration fee for motorboats. The fee for the first motorboat registered by a person in a year was proposed to be increased from \$4 to \$15, with the fee for all subsequent registrations remaining at \$4.
5. Creating a new one-time registration fee for motorless watercraft by requiring a person to pay \$10 for each motorless canoe, kayak, sailboard, sailboat or rowboat.
6. Creating a new recreational motorboat rental and leasing license with an annual fee of \$50.
7. Prohibiting the operation of a motorboat on certain waters on Mt. Desert Island and within 1000 feet of the intake of a public drinking water supply.
8. Prohibiting the operation of a personal watercraft without a safety sticker; leasing or renting a motorboat without a license; wake jumping by operators of personal watercraft; operating a motorboat without proper safety instruction; and operating an airmobile or other motorboat in excess of allowable noise limits.
9. Prohibiting the use of personal watercraft on great ponds located wholly within the unorganized territories except as provided in rules adopted by the Commissioner of Inland Fisheries and Wildlife. The bill also proposed to allow the commissioner a 2-year period to adopt rules governing the use and operation of personal watercraft on great ponds less than 200 acres in the organized areas. On and after June 1, 1999, the use of personal watercraft on those great ponds would have been prohibited unless the commissioner had adopted rules prior to that date specifying the use and operation of personal watercraft on those waters. Great ponds within the jurisdiction of the Maine Tribal-State Commission were to be temporarily exempted from the prohibition until such time as the commissioner provided recommendations on the use of personal watercraft on great ponds to the Legislature.
10. Requiring the Commissioner of Inland Fisheries and Wildlife to establish a motorboat safety education program for persons from 12 to 16 years of age.
11. Limiting the liability of a lake association from personal injury, property damage or death caused by the placement or maintenance by the association of navigational aid markers located and maintained under the provisions of a permit and in accordance with the State's marking system of waterways.
12. Changing from \$2.20 per \$500 in value to \$2.42 per \$500 in value the transfer tax that applies to property located within the watershed of a great pond. The additional revenue generated by this tax was targeted for

watercraft enforcement, education and training and the protection and enhancement of water quality in Maine lakes.

13. Assessing an annual \$10 water quality impact fee on each residential dwelling unit located within the watershed of a great pond. Revenues from this assessment are targeted at education and training of code enforcement officers and for the Lakes Heritage Trust Fund.
14. Increasing from 200 to 1,000 feet the allowable radius of the protection zone around intakes of public drinking water supplies.

Committee Amendment "A" (S-600) was the majority report of the Inland Fisheries and Wildlife Committee and the Natural Resources Committee. It was one of four committee reports. The amendment replaced the bill.

This amendment prohibits the operation of personal watercraft on remote and undeveloped ponds having at least one outstanding resource value that are wholly or partly within the jurisdiction of the Maine Land Use Regulation Commission. That provision would currently affect 242 ponds. The amendment also prohibits personal watercraft from lakes that are more than 2/3 in the Maine Land Use Regulation Commission jurisdiction and that have more than 1/2 of their shoreline in conservation ownership for low-impact public recreation. That provision would currently affect 3 great ponds. The amendment also prohibits motorboats with internal combustion motors on 5 ponds on Mount Desert Island that are entirely within Acadia National Park and prohibits motors greater than 10 horsepower on 2 other great ponds wholly within the park.

The amendment also expands the authority of the Commissioner of Inland Fisheries and Wildlife to regulate surface waters uses in the State by allowing the commissioner to regulate, in addition to horsepower, the use, operation and type of watercraft on great ponds for reasons that include, in addition to public safety, wildlife or environmental concerns, noise and traditional uses of the water body. Under this amendment, the commissioner may initiate rulemaking without being petitioned to do so. The petition process is amended to require that petitions from organized areas of the State be signed by 50 persons from the affected town, rather than 25, and to allow a petition from an unorganized territory to have fewer than 25 signatures of residents of that territory if the majority of residents in that territory is less than 25.

The amendment also requires that motorboat rental and leasing agents obtain a certificate from the Department of Inland Fisheries and Wildlife in order to lawfully rent or lease motorboats after January 1, 1999, with the exception of commercial sporting camps and campgrounds. The amendment also grants immunity to lake associations from personal injury, property damage or death caused by the association's buoys and increases from 200 to 400 feet the maximum distance a water utility or municipality may place buoys and limit activities around intakes to public water supplies.

The amendment also authorizes the Maine Indian Tribal-State Commission to adopt rules to regulate horsepower and use of motors on waters less than 200 acres that are entirely within Indian territory. That authority does not take effect until approved by the Passamaquoddy Tribe and the Penobscot Nation, as required by the Indian land claims settlement.

The amendment also establishes 16 years of age as the minimum age to operate a personal watercraft and creates new civil penalties for operating a motorboat in excess of certain noise limits and for tampering with a motorboat muffler system.

The amendment also requires the Maine Land Use Regulation Commission, Department of Inland Fisheries and Wildlife and Department of Conservation, Bureau of Parks and Lands to report to the Legislature next session on

the scope of their authority to regulate surface water uses and to make recommendations for regulating water bodies within their jurisdiction. It also requires the Department of Inland Fisheries and Wildlife to report back separately on a proposal for a safety training and education program for motorboat operators on inland waters. The amendment also adds an appropriation section and a fiscal note to the bill.

Senate Amendment "C" to Committee Amendment "A" (S-686) proposed to remove the provision in the majority report authorizing the Commissioner of Inland Fisheries and Wildlife to regulate the use, operation and type of watercraft on great ponds. This would leave the department with its existing authority to regulate horsepower of watercraft based on safety issues when petitioned to do so.

The amendment also proposed to add an unallocated section to the bill requiring the Commissioner of Inland Fisheries and Wildlife to submit a report to the first and second regular sessions of the 119th Legislature on the use, operation and type of watercraft on great ponds within the organized areas of the State based on recommendations voluntarily submitted to the commissioner by the municipalities in 1998 and 1999. Each report must be accompanied by legislation to implement municipal recommendations supported by the department and may include additional proposals from the department itself. Municipalities that choose to submit recommendations must first hold a public hearing and must include a description of the resources the municipality or municipalities will use to enforce those regulations if enacted.

Senate Amendment "F" to Committee Amendment "A" (S-691) proposed to strike the motorboat rental and leasing agent certificate requirements proposed in Committee Amendment "A" and replace them with similar provisions that apply only to agents that rent or lease personal watercraft. The amendment also exempts property owners who offer renters the use of their registered personal watercraft from obtaining such a certificate.

Enacted law summary

Public Law 1997, chapter 739 does the following:

1. Prohibits the operation of personal watercraft on remote and undeveloped ponds having at least one outstanding resource value that are wholly or partly within the jurisdiction of the Maine Land Use Regulation Commission(242 ponds; 8% of all LURC ponds).
2. Prohibits personal watercraft from waters that are more than two thirds in LURC jurisdiction and that have more than half of their shoreline in conservation ownership for low impact public recreation (Currently Mooselookmeguntic Lake, Donnell Pond and Tunk Lake qualify under this provision)
3. Prohibits internal combustion motors on five ponds on Mount Desert Island that are entirely within Acadia National Park and prohibits motors greater than 10 horsepower on two other great ponds wholly within the Park;
4. Requires the Commissioner of Inland Fisheries and Wildlife to submit a report to the First and Second Regular Session of the 119th Legislature on the use, operation and type of watercraft on great ponds within the organized areas of the state based on recommendations voluntarily submitted to the commissioner by the municipalities. Each report must be accompanied by legislation to implement recommendations supported by the department, and may include additional proposals from the department itself. Municipalities that choose to submit recommendations must first hold a public hearing and must include a description of the resources the municipality or municipalities will use to enforce those regulations if enacted.

5. Requires that personal watercraft rental and leasing agents obtain a certificate from the Department of Inland and Fisheries and Wildlife in order to lawfully rent or lease personal watercraft after January 1, 1999, with the exception of commercial sporting camps, campgrounds and property owners who offer personal watercraft for use by people who rent or lease that property;
6. Grants immunity to lake associations from personal injury, property damage or death caused by the association's buoys;
7. Increases from 200 to 400 feet the maximum distance a water utility or municipality may place buoys and limit activities around intakes to public water supplies;
8. Authorizes the Maine Indian Tribal-State Commission to adopt rules to regulate horsepower and use of motors on waters less than 200 acres that are entirely within Indian Territory. (That authority does not take effect until approved by the Passamaquoddy Tribe and the Penobscot Nation, as required by the Land Claims Settlement Act.)
9. Establishes 16 as the minimum age to operate a personal watercraft;
10. Creates new civil penalties for operating a motorboat in excess of certain noise limits and for tampering with a motorboat muffler system.
11. Requires LURC, DIFW and BPL to report to the Legislature next session on the scope of their authority to regulate surface water uses and to make recommendations for regulating water bodies within their jurisdiction; and
12. Requires the DIFW to report back separately on a proposal for a safety training and education program for motorboat operators on inland waters.

LD 1836

An Act to Facilitate Delegation of the Federal Waste Discharge Permitting Program

PUBLIC 794

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COWGER	OTP-AM	H-910 S-705 NUTTING

LD 1836 proposed to make a series of changes in Maine law necessary for the State to apply for future delegation of the Federal Discharge Licensing and Management Program.

The bill proposed to make statutory changes to address inconsistencies between state and federal law which must be removed before the State can proceed with other portions of a full application to the United States Environmental Protection Agency for delegation of the federal program. The bill proposed to make revisions to the waste discharge license fee system that would allow the Department of Environmental Protection to set license fees based on technical considerations and within the framework and limitations established in the bill. The bill proposed to make allocations to realign some existing positions and add new positions. These new positions would be funded primarily through increased license fees.

Committee Amendment "A" (H-910) proposed to do the following.

1. It proposed to make a technical change to the language in the bill regarding an affirmative defense for a violation of a wastewater discharge license resulting from an unavoidable malfunction.
2. It proposed to require the Department of Environmental Protection to consult with the applicant for a discharge license and interested parties if the department establishes effluent limits on a case-by-case basis because no applicable standards exist.
3. It proposed to make a technical change to the language in the bill regarding licenses to treat public water supplies with copper sulfate or related compounds.
4. It proposed to authorize the Board of Environmental Protection rather than the Administrative Court to modify, revoke or suspend a waste discharge license.
5. It proposed to require that rules adopted by the department relating to permits issued under the Federal Water Pollution Control Act comply with the federal act.
6. It proposed to strike out language in the bill relating to fee adjustments that was enacted in previous legislation.
7. It proposed to make changes to the fee structure for annual waste discharge licenses to reflect General Fund support for the program.
8. It proposed to establish lower discharge fee rates to be used in computing waste discharge license fees during the first year after enactment of the legislation to reflect the deferred hiring of 2 positions.
9. It proposed to require the department to submit a report to the joint standing committee of the Legislature having jurisdiction over natural resource matters by January 1, 2001 concerning the waste discharge licensing program and the department's handling of its increased responsibilities under the program.
10. It proposed to change the allocation section to reflect General Fund support for the program.

Senate Amendment "A" to Committee Amendment "A" (S-705) proposed to require the Commissioner of Environmental Protection to explore all available funding opportunities prior to the implementation of the 2nd tier of waste discharge fees.

Enacted law summary

Public Law 1997, chapter 794 makes a series of statutory changes to allow the State to apply for future delegation of the Federal Discharge Licensing and Management Program. The law revises the waste discharge license fee structure and establishes lower discharge fee rates to be used in computing waste discharge license fees during the first year after enactment. The law requires the Commissioner of Environmental Protection to explore all available funding opportunities prior to the implementation of the revised fee structure with the second tier of discharge fee rates. The law also allocates funds for 8 new positions.

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
JONES SL MCKEE	OTP-AM	S-658 NUTTING

LD 1918 proposed to amend the laws regarding mandatory shoreland zoning to provide that the definition of "functionally water-dependent uses" does not include accessory uses that do not require direct access to or location in coastal or inland waters such as boathouse, storage or parking facilities.

Committee Amendment "A" (H-838) proposed to clarify that recreational boat storage buildings are not functionally water-dependent uses for purposes of mandatory shoreland zoning, and that retaining walls are functionally water-dependent uses. The amendment also proposed to provide that the exclusion of recreational boat storage buildings from the definition of "functionally water-dependent uses" is deemed to be incorporated into each municipal shoreland zoning ordinance. Finally, the amendment proposed to clarify that functionally water-dependent uses are exempt from the water setback requirements approved by the Board of Environmental Protection, within the Department of Environmental Protection.

The amendment also proposed to add a fiscal note to the bill. This amendment was not adopted.

Senate Amendment "A" (S-658) proposed to clarify that recreational boat storage buildings are not functionally water-dependent uses for purposes of mandatory shoreland zoning, and that retaining walls are functionally water-dependent uses. The amendment also proposed to provide that the exclusion of recreational boat storage buildings from the definition of "functionally water-dependent uses" is deemed to be incorporated into each municipal shoreland zoning ordinance. Finally, the amendment proposed to clarify that functionally water-dependent uses are exempt from the water setback requirements approved by the Board of Environmental Protection, within the Department of Environmental Protection.

The amendment also proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 1997, chapter 726 clarifies that recreational boat storage buildings are not functionally water-dependent uses for purposes of mandatory shoreland zoning, and that retaining walls are functionally water-dependent uses. The law also provides that the exclusion of recreational boat storage buildings from the definition of "functionally water-dependent uses" is deemed to be incorporated into each municipal shoreland zoning ordinance. Finally, the law clarifies that functionally water-dependent uses are exempt from the water setback requirements approved by the Board of Environmental Protection, within the Department of Environmental Protection.

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
COWGER	OTP-AM MAJ ONTP MIN	H-786

LD 1944 proposed to describe the situations in which environmental fines could be used for environmental projects such as research, habitat enhancement or protection, public education, pollution prevention or local emergency planning. The bill proposed to more clearly define and ratify many of the concepts in the Department of Environmental Protection's current policy governing supplemental environmental projects.

Committee Amendment "A" (H-786) proposed to clarify that supplemental environmental projects may not be used as part of a civil enforcement action settlement for repeat violations by the same person of the same or a substantially similar law administered by the Department of Environmental Protection. The amendment also proposed to specify that a project that the violator had previously planned and budgeted for may not be used as a supplemental environmental project. The amendment also proposed to clarify that supplemental environmental projects may not be used to offset any calculable economic benefit of noncompliance. Finally, the amendment proposed to strike reference to rules and any other terms and conditions that may be adopted by the Commissioner of Environmental Protection or the Attorney General.

The amendment also proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 1997, chapter 570 authorizes the use of a portion of a fine resulting from a civil enforcement action settlement for a violation of the environmental laws for an environmental project such as pollution prevention or reduction projects, environmental enhancement projects, research projects or public health projects. The law specifies the situations in which supplemental environmental projects may be used to mitigate a portion of an assessed penalty.

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM	H-797 H-995

LD 1972 proposed to make changes in the provisions of the Maine Revised Statutes, Title 12, chapter 807, Forest Fire Control and Title 38, chapter 24, Solid Waste Management and Recycling to:

1. Address citizen complaints about the numerous barrel incinerators in the State and the concern for public health impacts from localized emissions of backyard trash burning that include high levels of fine particulates, dioxin, furans and other hazardous air pollutants;

2. Provide incentives for municipalities to reduce the incidence of backyard trash burning through the implementation of recycling and municipal trash collection service; and
3. Establish a program of public education to be administered in conjunction with the Department of Environmental Protection and the State Planning Office.

Committee Amendment "A" (H-797) proposed to require a forest ranger or fire warden, when issuing a permit for residential out-of-door burning of highly combustible trash, to consider the public health risk from toxic chemicals in the smoke plume in accordance with guidelines issued by the Department of Environmental Protection, and the practicality of locating the incinerator at least 300 feet from any abutting property boundary and at least 150 feet from any residential dwelling.

The amendment also proposed to delete from the bill a requirement for the Department of Conservation to undertake a program of public education on the impacts of out-of-door burning. The amendment also proposed to allow the State Planning Office, when providing technical and financial assistance for waste reduction and recycling, to give preference to municipalities that provide a municipal trash collection service or that prohibit residential out-of-door trash burning. Finally, the amendment proposed to add a fiscal note to the bill.

Committee of Conference Amendment "A" to Committee Amendment "A" (H-995), the report of the Committee of Conference, proposed to provide that the Director of the Bureau of Forestry or a forest ranger or fire warden delegated by the director may not deny a permit for residential out-of-door burning based on the consideration of the practicality of locating the incinerator at least 300 feet from an abutting property boundary and at least 150 feet from a residential dwelling.

Enacted law summary

Public Law 1997, chapter 672 requires a forest ranger or fire warden, when issuing a permit for residential out-of-door burning of highly combustible trash, to consider the public health risk from toxic chemicals in the smoke plume in accordance with guidelines issued by the Department of Environmental Protection, and the practicality of locating the incinerator at least 300 feet from any abutting property boundary and at least 150 feet from any residential dwelling. The law prohibits a ranger or warden from denying a permit based on the setback criteria. The law also allows the State Planning Office, when providing technical and financial assistance for waste reduction and recycling, to give preference to municipalities that provide a municipal trash collection service or that prohibit residential out-of-door trash burning.

LD 2092

An Act to Clarify Certain Laws Pertaining to the Department of Environmental Protection, Bureau of Land and Water Quality

PUBLIC 603

Sponsor(s)
COWGER

Committee Report
OTP-AM

Amendments Adopted
H-812

LD 2092 proposed to clarify the definition in the natural resources protection laws of coastal sand dune systems to provide that these systems may include areas containing coarser materials such as gravel. This bill proposed to amend the site location of development law's exemption for roundwood and lumber storage yards to specifically include split firewood. It also proposed to correct a substantive conflict in the site location of development laws by providing that a municipality may have delegated authority to review developments or developments in the same municipality may be exempt under the capacity exemption, but not both.

This bill proposed to clarify a provision in the performance standards for excavation for borrow, clay, topsoil or silt laws that allows a medium pit owner or operator not licensed under the site law on October 1, 1993 to reclaim certain areas as ponds. It proposed to provide that further excavation is not allowed, without a variance from the department, in areas previously excavated within 5 feet of the seasonal high water table, or at or below the seasonal high water table. The bill also proposed to change the effective date of the site location of development law's erosion and stormwater standards and the new stormwater management law from July 1, 1997 to September 19, 1997.

Committee Amendment "A" (H-812) proposed to clarify the definition of subdivision in the site location of development laws to provide that a subdivision is either the division of a parcel of land into 5 or more lots on more than 20 acres or the division of a parcel of land into 15 or more lots on more than 30 acres if all lots are for single-family residential housing, common areas or open space.

The amendment also proposed to clarify that certain structures are exempt from review under the site location of development laws if located wholly within a municipality or municipalities meeting the criteria for capacity. The amendment also proposed to provide that, when a municipality is delegated authority to substitute its review of certain types of development for review under the site location of development laws and the Department of Environmental Protection determines that the municipality meets the criteria for capacity, the municipality's delegated authority must be suspended for the type of development that is exempt from review under the capacity standard.

The amendment also proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 1997, chapter 603 clarifies the definition in the natural resources protection laws of coastal sand dune systems to provide that these systems may include areas containing coarser materials such as gravel. The law also makes several changes to the site location of development laws. It clarifies the definition of subdivision to provide that a subdivision is either the division of a parcel of land into 5 or more lots on more than 20 acres or the division of a parcel of land into 15 or more lots on more than 30 acres if all lots are for single-family residential housing, common areas or open space. It amends the site location of development law's exemption for roundwood and lumber storage yards to specifically include split firewood. It clarifies that certain structures are exempt from review under the site location of development laws if located wholly within a municipality or municipalities meeting the criteria for capacity. It provides that, when a municipality is delegated authority to substitute its review of certain types of development for review under the site location of development laws and the Department of Environmental Protection determines that the municipality meets the criteria for capacity, the municipality's delegated authority must be suspended for the type of development that is exempt from review under the capacity standard.

The law clarifies a provision in the performance standards for excavation for borrow, clay, topsoil or silt laws that allows a medium pit owner or operator not licensed under the site law on October 1, 1993 to reclaim certain areas as ponds. It provides that further excavation is not allowed, without a variance from the department, in areas previously excavated within 5 feet of the seasonal high water table, or at or below the seasonal high water table.

The law also changes the effective date of the site location of development law's erosion and stormwater standards and the new stormwater management law from July 1, 1997 to September 19, 1997.

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
SHIAH	OTP-AM	H-866

LD 2095 proposed to:

1. Extend the repeal date of the Maine Environmental Protection Fund fee schedule to 90 days after adjournment of the Second Regular Session of the 119th Legislature;
2. Clarify that license fees for solid waste disposal facilities are to be paid annually and that failure to pay the annual fee is grounds for license revocation;
3. Eliminate a loophole allowing nonconforming underground oil storage tanks installed after 1985 to remain in place until the manufacturer warranty expires;
4. Clarify the circumstances under which oil export fees may be reimbursed;
5. Clarify the statutory provision requiring all underground piping at aboveground oil storage facilities to be constructed of noncorrosive material;
6. Clarify the statutory provision requiring all underground piping at aboveground oil storage facilities to be installed and removed in accordance with applicable rules adopted by the Board of Environmental Protection;
7. Clarify certain definitions set forth in the statutes governing lead abatement;
8. Change the lead abatement laws to require that an unlicensed person must both own and occupy a dwelling in which the person performs abatement activities;
9. Require applicants seeking Department of Environmental Protection approval to expand a special waste landfill to pay the cost of municipal intervention in the department proceedings;
10. Broaden the rule-making authority of the Board of Environmental Protection for the purpose of adopting waste oil rules consistent with federal requirements; and
11. Require the Board of Environmental Protection to consider an applicant's financial capacity in issuing post-closure licenses for hazardous waste facilities.

Committee Amendment "A" (H-866) proposed to clarify that solid waste facility license fees must be paid annually and that failure to pay the fee within 30 days of the anniversary date of the license is grounds for modification, suspension or revocation of the license in accordance with the Maine Administrative Procedure Act.

The amendment proposed to clarify a provision in the bill to provide that tanks installed before December 31, 1985 be removed from service upon the expiration of the manufacturer's warranty, but not until January 1, 2008 if the tanks meet requirements for leak detection and overfill and spill prevention equipment.

The amendment proposed to make minor changes to the definitions of "lead hazard" and "risk assessment," as amended in the bill.

The amendment proposed to require the Department of Environmental Protection to hold a public hearing on an application for the construction or expansion of a commercial or a state-owned solid waste disposal facility that accepts special waste, if a hearing is requested by a resident or a property owner in the municipality in which the proposed facility is located, and proposed to require the applicant to pay the administrative expenses of the hearing. The amendment proposed to grant automatic intervenor status in a public hearing on an application for a license to an owner of property abutting a proposed solid waste disposal facility site. The amendment proposed to clarify that an applicant for a solid waste disposal facility license pays for municipal intervenor financial assistance grants according to department rules.

The amendment proposed to strike a change to an effective date that was not intended to be in the bill. The amendment proposed to delay the effective date of the section of the bill that prohibits the operation of aboveground oil storage facilities constructed before July 1, 1985 that have nonconforming underground piping. This delay would give the owners or operators of such facilities until July 1, 1999 to replace the nonconforming underground piping. It also proposed to add a fiscal note to the bill.

Enacted law summary

Public Law 1997, chapter 624 makes several changes to the laws pertaining to the Department of Environmental Protection's Bureau of Remediation and Waste Management, including the following.

It extends the repeal date of the Maine Environmental Protection Fund fee schedule to 90 days after adjournment of the Second Regular Session of the 119th Legislature and clarifies that solid waste facility license fees must be paid annually and that failure to pay the fee within 30 days of the anniversary date of the license is grounds for modification, suspension or revocation of the license in accordance with the Maine Administrative Procedure Act.

It requires that underground oil storage tanks installed before December 31, 1985 be removed from service upon the expiration of the manufacturer's warranty, but not until January 1, 2008 if the tanks meet requirements for leak detection and overfill and spill prevention equipment. It prohibits the operation of aboveground oil storage facilities constructed before July 1, 1985 that have nonconforming underground piping, but gives the owners or operators of such facilities until July 1, 1999 to replace the nonconforming underground piping.

It clarifies certain definitions and provisions in the statutes governing lead abatement.

It requires the Department of Environmental Protection to hold a public hearing on an application for the construction or expansion of a commercial or a state-owned solid waste disposal facility that accepts special waste, if a hearing is requested by a resident or a property owner in the municipality in which the proposed facility is located, and requires the applicant to pay the administrative expenses of the hearing. The law grants automatic intervenor status in a public hearing on an application for a license to an owner of property abutting a proposed solid waste disposal facility site. The law clarifies that an applicant for a solid waste disposal facility license pays for municipal intervenor financial assistance grants according to department rules.

It broadens the rule-making authority of the Board of Environmental Protection for the purpose of adopting waste oil rules consistent with federal requirements.

It requires the Board of Environmental Protection to consider an applicant's financial capacity in issuing post-closure licenses for hazardous waste facilities.

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
NUTTING	OTP-AM	S-488

LD 2105 proposed to clarify the authority of the Finance Authority of Maine to make loans and grants to upgrade the condition of aboveground oil storage tanks and it proposed to authorize expenditures from the Ground Water Oil Clean-up Fund to prevent accidental discharges from aboveground oil storage tanks and to require the Commissioner of Environmental Protection to seek reimbursement of such expenditures.

Committee Amendment "A" (S-488) proposed to authorize the disbursement of \$250,000 from the Ground Water Oil Clean-up Fund during fiscal years 1998-99 and 1999-2000 for retrofitting, repairing or replacing aboveground oil storage tanks and facilities and \$750,000 during fiscal years 1998-99 and 1999-2000 for distribution to community action agencies for grants and loans to retrofit, repair or replace aboveground oil storage tanks at single-family residences. The amendment proposed to eliminate from the bill the requirement that the Commissioner of Environmental Protection seek reimbursement for such expenditures from the fund.

The amendment also proposed to require the Maine State Housing Authority to transfer to the Department of Environmental Protection, by October 1, 1998, the undistributed balance of funds previously transferred to the authority from the Ground Water Oil Clean-up Fund.

The amendment also proposed to require the Fund Insurance Review Board to report to the joint standing committee of the Legislature having jurisdiction over natural resources matters by January 15, 2000 on the disbursement of funds from the Ground Water Oil Clean-up Fund for the purpose of retrofitting, repairing or replacing aboveground oil storage tanks and facilities, and to recommend whether the law should be amended to allow further disbursements for those purposes.

The amendment also proposed to add an allocation section and a fiscal note to the bill.

Enacted law summary

Public Law 1997, chapter 613 authorizes the disbursement of \$250,000 from the Ground Water Oil Clean-up Fund during fiscal years 1998-99 and 1999-2000 for retrofitting, repairing or replacing aboveground oil storage tanks and facilities and \$750,000 during fiscal years 1998-99 and 1999-2000 for distribution to community action agencies for grants and loans to retrofit, repair or replace aboveground oil storage tanks at single-family residences. The law requires the Fund Insurance Review Board to report by January 15, 2000 with a recommendation on whether the law should be amended to allow further disbursements for those purposes. It also requires the Maine State Housing Authority to transfer to the Department of Environmental Protection, by October 1, 1998, the undistributed balance of funds previously transferred to the authority from the Ground Water Oil Clean-up Fund.

The law also clarifies the authority of the Finance Authority of Maine to make loans and grants to upgrade the condition of aboveground oil storage tanks. Chapter 613 was enacted as an emergency measure effective March 23, 1998.

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TREAT	OTP-AM MAJ	
ROWE	OTP-AM MIN	

LD 2111 proposed to amend the State's toxic use, toxic release and hazardous waste reduction laws by establishing new reduction goals through the year 2006 and focusing the program on water and air toxics. The bill proposed to continue planning requirements and to establish an approval process of plan summaries by the Department of Environmental Protection. The bill proposed to eliminate the fee requirement for small quantity generators and to establish a new fee structure. It also proposed to add the state toxicologist within the Department of Human Services and the Commissioner of Agriculture, Food and Rural Resources or the commissioner's designee to the Pollution Prevention Advisory Committee within the Department of Environmental Protection.

Committee Amendment "A" (S-662), the majority report of the Joint Standing Committee on Natural Resources, proposed to retain the provision in the bill that adds the state toxicologist and the Commissioner of Agriculture, Food and Rural Resources to the Pollution Prevention Advisory Committee within the Department of Environmental Protection and to strike the rest of the bill.

The amendment proposed to repeal the definition of "extremely hazardous substance" and amend the definitions of "toxic substance," "toxics releaser" and "toxics user." The amendment proposed to establish new toxics use, toxics release and hazardous waste reduction goals through the year 2006.

The amendment proposed to require the Department of Environmental Protection to report to the joint standing committee of the Legislature having jurisdiction over natural resources matters biennially beginning January 1, 2003 on progress toward meeting the reduction goals and to require an interim report by January 1, 2001 on the establishment of baselines, facilities that have achieved 51% reductions, exemptions and progress toward computerizing data.

The amendment proposed to make the toxics use reduction goals voluntary but to require a toxics user to examine, plan and implement means of reducing toxics use. The amendment proposed to specify that a facility that increased or did not reduce its use of toxics from the 1990 baseline must be put on a department priority list for technical assistance and must submit a reduction plan summary by July 1, 1999 for department approval. The amendment proposed to maintain the exemption from toxics use planning, reporting and fee requirements for drinking water supply treatment facilities and municipal wastewater treatment facilities and to add an exemption from the toxics use and toxics release requirements for retail and wholesale distribution facilities of refined petroleum products and an exemption from the toxics use, toxics release and hazardous waste requirements for pesticide distribution and application activities regulated by the Board of Pesticides Control.

The amendment proposed to require toxics releasers and hazardous waste generators that ship 1,320 pounds or more of hazardous waste in a calendar year to meet the revised reduction goals and to require those that did not meet the original reduction goals to meet them by January 1, 1999.

The amendment proposed to exempt from the reduction goals a facility that reduces by January 1, 2000 the aggregate amount of toxics used, toxics released or hazardous waste generated by 51% or more from the facility's original baseline amount but to require such a facility to meet the reporting and fee requirements. It also proposed to establish alternative projects that such a facility may perform. The amendment also proposed to specify that

such a facility may not increase the amount of toxics used, toxics released or hazardous waste generated per unit of product at the facility, whichever is applicable, using 1998 as the base year.

The amendment proposed to continue the requirement in current law that facilities develop plans for their own use in meeting the reduction goals and to specify requirements for employee involvement in developing the plans. It also proposed to require facilities to submit summaries of the plans to the Commissioner of Environmental Protection for approval and to specify a process for protecting confidential information in the plan summaries.

The amendment proposed to establish a revised fee structure for hazardous waste generators, toxics users and toxics releasers. It also proposed to establish penalty fees for failure to meet reduction requirements.

The amendment proposed to require the Department of Environmental Protection to develop, in consultation with the Bureau of Health within the Department of Human Services, a health-based ranking system for toxic substances and a graduated fee system for toxic substances based on the toxicity ranking. The amendment proposed to require the department to submit to the joint standing committee of the Legislature having jurisdiction over natural resources matters an interim report on the ranking system by January 1, 1999 and a final report on the ranking system and the fee system by January 1, 2000. The amendment also proposed to require the department to establish a biennial environmental awards program to reward facilities that are high achievers in meeting the toxics use reduction goals. This amendment was not adopted.

Committee Amendment "B" (S-663), the minority report of the Joint Standing Committee on Natural Resources, proposed to replace the bill and change the title. The amendment proposed to extend the deadline for meeting the 30% reduction goals for toxics use, toxics release or hazardous waste generation from January 1, 1998 to January 1, 1999. The amendment proposed to clarify that the fee requirements for toxics users, toxics releasers and hazardous waste generators continue regardless of whether the goals are met. The amendment also proposed to require the Department of Environmental Protection to consult with interested parties and to submit a report to the joint standing committee of the Legislature having jurisdiction over natural resources matters no later than January 1, 1999 regarding the toxics use and hazardous waste reduction laws and any recommendations for changes. This amendment was not adopted.

LD 2119	An Act to Clarify the Responsibilities of the Advisory Commission on Radioactive Waste during the Decommissioning of Maine Yankee	PUBLIC 700 EMERGENCY
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<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TREAT	OTP-AM MAJ	S-514
	ONTP MIN	S-540 KILKELLY

LD 2119 proposed to make the following changes to the laws that govern the Advisory Commission on Radioactive Waste.

1. It proposed to change the name of the commission to the Advisory Commission on Radioactive Waste and Decommissioning.
2. It proposed to specify that one of the Senators and one of the Representatives appointed to the commission must be members of the joint standing committee of the Legislature having jurisdiction over natural resource matters and one of the Senators and one of the Representatives appointed to the commission must be members of the joint standing committee of the Legislature having jurisdiction over utility and energy matters. It also proposed

to add the following 3 members to the commission: the Commissioner of Environmental Protection or the commissioner's designee; one member representing a local advisory group on nuclear power plants; and one member representing an environmental advocacy organization.

3. It proposed to provide that a duty of the commission is to study all issues relating to the decommissioning of nuclear power plants, including, but not limited to, economic impacts, ratepayer considerations and environmental issues and to advise the Governor, the Legislature and other state agencies on these matters. It also proposed that another duty of the commission is to monitor the decommissioning of nuclear power plants.
4. It proposed to provide additional staff support to the commission.

Committee Amendment "A" (S-514), the majority report of the Joint Standing Committee on Natural Resources, proposed to require that at least one, rather than 2, of the 3 Senators appointed to the Advisory Commission on Radioactive Waste and Decommissioning belong to the political party holding the largest number of seats in the Senate and at least one of the Senators belong to the political party holding the 2nd largest number of seats in the Senate, and that at least one, rather than 2, of the 3 Representatives appointed to the Advisory Commission on Radioactive Waste and Decommissioning belong to the political party holding the largest number of seats in the House of Representatives and at least one of the Representatives belong to the political party holding the 2nd largest number of seats in the House. The amendment also proposed to strike from the bill the addition to the commission of one member representing a local advisory group on nuclear power plants and the requirement that the chair of the commission be a Legislator.

The amendment proposed to strike from the bill the requirement that the Advisory Commission on Radioactive Waste and Decommissioning study economic impacts and ratepayer considerations relating to the decommissioning of nuclear power plants.

The amendment proposed to strike from the bill the authorization for the Department of Human Services to establish a part-time position to provide staff support to the Advisory Commission on Radioactive Waste and Decommissioning and to strike the allocation for that staff. The amendment also proposed to specify that the Maine Yankee Atomic Power Plant shall pay \$25,000 annually to the Department of Environmental Protection to support allocations to the department associated with providing support to the Advisory Commission on Radioactive Waste and Decommissioning. The requirement for this payment would end on the date of the final termination of Maine Yankee's operating license.

The amendment also proposed to add a fiscal note to the bill.

Senate Amendment "A" to Committee Amendment "A" (S-540) proposed to clarify that of the 4 public members, one must reside in the community in which the nuclear power plant is located and one must represent a local advisory group on nuclear power plants.

Enacted law summary

Public Law 1997, chapter 700 changes the name of the Advisory Commission on Radioactive Waste to the Advisory Commission on Radioactive Waste and Decommissioning. The law specifies that one of the Senators and one of the Representatives appointed to the commission must be members of the joint standing committee of the Legislature having jurisdiction over natural resource matters and one of the Senators and one of the Representatives appointed to the commission must be members of the joint standing committee of the Legislature having jurisdiction over utility and energy matters. It also adds to the commission a member representing an environmental advocacy

organization and specifies that of the 4 public members, one must reside in the community in which the nuclear power plant is located and one must represent a local advisory group on nuclear power plants.

The law provides that a duty of the commission is to study issues relating to the decommissioning of nuclear power plants, including environmental issues. The law requires the Department of Environmental Protection, in addition to the Department of Human Services, to provide staffing assistance to the commission and specifies that the Maine Yankee Atomic Power Plant shall pay \$25,000 annually to the Department of Environmental Protection to support allocations associated with providing this support. The requirement for this payment ends on the date of the final termination of Maine Yankee's operating license.

Chapter 700 was enacted as an emergency measure effective April 3, 1998.

LD 2223

An Act to Reduce Air Pollution from Motor Vehicles and to Meet Requirements of the Federal Clean Air Act

PUBLIC 786

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM A	H-1050
	OTP-AM B	H-1165 ROWE
	ONTP C	H-1168 WHEELER E

LD 2223 proposed to amend the list of motor vehicle equipment that must be inspected under the State's motor vehicle inspection program to include gas caps on model 1974 and later vehicles, beginning January 1, 1999, and to include on-board diagnostic systems on 1996 and later vehicles, beginning January 1, 2000. The bill also proposed to increase the fee for motor vehicle inspections from \$6 to \$9.50 beginning January 1, 1999 and to \$12.50 for 1996 and later vehicles beginning January 1, 2000. The bill proposed to increase the fee paid by inspection stations for inspection stickers from \$1 to \$1.50 beginning January 1, 1999. The bill also proposed to require certified inspection mechanics to pass an examination as part of the first renewal of an inspection mechanic certificate after January 1, 1999.

The bill proposed to require the Department of Environmental Protection to submit to the United States Environmental Protection Agency a revision to the state implementation plan that incorporates the motor vehicle inspection program under Title 29-A, chapter 15, subchapter 1, to meet the federal requirement for a vehicle emission control inspection and maintenance program.

The bill proposed to make operating a motor vehicle that emits visible smoke in the exhaust emissions for a period of 5 or more consecutive seconds a traffic infraction subject to a fine of up to \$100. The bill also proposed to establish a roadside diesel-powered motor vehicle emission opacity testing program to be administered by the Department of Environmental Protection in cooperation with the Department of Public Safety.

The bill proposed to require the Department of Environmental Protection to establish and implement a public education program designed to increase awareness of ozone and air toxics problems and to promote measures that minimize the contribution of motor vehicle emissions to air quality problems.

Committee Amendment "A" (H-1050), the majority report of the Joint Standing Committee on Natural Resources, proposed to amend the State's motor vehicle inspection program to require an enhanced inspection for motor vehicles required to be registered in Cumberland County. The enhanced inspection would consist of an inspection of the equipment currently subject to inspection plus a fuel tank cap pressure test on model 1974 and

later gasoline-powered vehicles, beginning January 1, 1999, and an inspection of the on-board diagnostic system on 1996 and later vehicles, beginning January 1, 2000. The amendment proposed to require the State Police to adopt rules to establish procedures and standards for a fuel tank cap pressure test.

The amendment proposed to increase the fee for the current inspection to \$6.50 beginning January 1, 1999 and to set the fee for the enhanced inspection at \$9.50 beginning January 1, 1999 and at \$12.50 beginning January 1, 2000 for 1996 and later vehicles only. It proposed to retain the section in the bill that increases the fee paid by inspection stations for inspection stickers from \$1 to \$1.50 beginning January 1, 1999.

The amendment proposed to require all inspection stations in Cumberland County to offer the enhanced inspection only and to permit inspection stations outside of Cumberland County to offer both the current inspection and the enhanced inspection. It proposed to require an inspection station that offers enhanced inspections to employ an inspection mechanic certified to perform enhanced inspections.

The amendment proposed to define "diesel-powered motor vehicle," for purposes of the diesel testing program, as a diesel-powered motor vehicle that has a gross vehicle weight rating of 10,001 or more pounds and that is used in commerce. It proposed to exclude a truck registered as a farm truck from the diesel testing requirements. The amendment proposed to specify that only diesel-powered motor vehicles identified by certified inspectors as potential violators of the emission opacity standards are subject to testing under the diesel testing program and to require that inspectors be certified pursuant to the procedures for certification specified in the United States Environmental Protection Agency's Reference Method 9.

The amendment proposed to require the Department of Environmental Protection to implement a public education program in Cumberland County designed to enhance and facilitate the enforcement of state traffic laws governing automobile inspection and maintenance requirements. It proposed to require the Department of Environmental Protection and the Department of Public Safety to report jointly to the joint standing committee of the Legislature having jurisdiction over natural resources matters by January 1, 2000 regarding an evaluation of the enhanced inspection program and any recommendations for expanding the enhanced inspection program statewide.

The amendment proposed to allocate from the Highway Fund \$22,645 to the Department of Environmental Protection and \$185,400 to the State Police.

The amendment also proposed to add a fiscal note to the bill.

Committee Amendment "B" (H-1051), a minority report of the Joint Standing Committee on Natural Resources, proposed to clarify that the fuel tank cap is subject to inspection on gasoline-powered vehicles only and it proposed to require the State Police to adopt rules to establish procedures and standards for a fuel tank cap pressure test.

The amendment proposed to define "diesel-powered motor vehicle," for purposes of the diesel testing program, as a diesel-powered motor vehicle that has a gross vehicle weight rating of 10,001 or more pounds and that is used in commerce. It proposed to exclude a truck registered as a farm truck from the diesel testing requirements. The amendment proposed to specify that only diesel-powered motor vehicles identified by certified inspectors as potential violators of the emission opacity standards are subject to testing under the diesel testing program and to require that inspectors be certified pursuant to the procedures for certification specified in the United States Environmental Protection Agency's Reference Method 9.

The amendment proposed to require the Department of Environmental Protection to implement a public education program designed to enhance and facilitate the enforcement of state traffic laws governing automobile inspection

and maintenance requirements. The amendment proposed to allocate from the Highway Fund \$65,868 to the Department of Environmental Protection and \$185,400 to the State Police.

The amendment also proposed to add a fiscal note to the bill. This amendment was not adopted.

House Amendment "C" to Committee Amendment "A" (H-1165) proposed to make a technical change to Committee Amendment "A".

House Amendment "D" to Committee Amendment "A" (H-1168) proposed to change the proposed Diesel-powered Motor Vehicle Emission Opacity Testing Program in the following ways.

It proposed to change the size of diesel-powered motor vehicles subject to the program to those with a gross vehicle weight rating of 26,001 or more pounds.

It proposed to require the Commissioner of Environmental Protection to establish procedures and standards to implement the program within 7 days of the effective date of the legislation.

It proposed to eliminate the punitive aspects of the program, instead requiring the department to give the operator of a vehicle that does not comply with the standards established in the program educational materials describing the benefits of a vehicle that does comply with the program.

It proposed to repeal the program on June 30, 1999.

Enacted law summary

Public Law 1997, chapter 786 amends the State's motor vehicle inspection program to require an enhanced inspection for motor vehicles required to be registered in Cumberland County. The enhanced inspection consists of an inspection of the equipment currently subject to inspection plus a fuel tank cap pressure test on model 1974 and later gasoline-powered vehicles, beginning January 1, 1999, and an inspection of the on-board diagnostic system on 1996 and later vehicles, beginning January 1, 2000.

The law increases the fee for the current inspection to \$6.50 beginning January 1, 1999 and sets the fee for the enhanced inspection at \$9.50 beginning January 1, 1999 and at \$12.50 beginning January 1, 2000 for 1996 and later vehicles only. It increases the fee paid by inspection stations for inspection stickers from \$1 to \$1.50 beginning January 1, 1999.

The law also establishes a one-year roadside diesel-powered motor vehicle emission opacity testing program to be administered by the Department of Environmental Protection in cooperation with the Department of Public Safety. The law requires the Department of Environmental Protection to give educational materials to a person who causes operation of a diesel-powered motor vehicle that does not comply with the program's emission opacity standards.

The law makes operating a motor vehicle that emits visible smoke in the exhaust emissions for a period of 5 or more consecutive seconds a traffic infraction subject to a fine of up to \$100.

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM MAJ	H-993
	OTP-AM MIN	

LD 2233 proposed to provide for legislative review and authorization of final adoption of Chapter 231: Rules Relating to Drinking Water, a major substantive rule of the Department of Human Services.

Committee Amendment "A" (H-993), the majority report of the Joint Standing Committee on Natural Resources, proposed to add a mandate preamble to the resolve. The amendment also proposed to require the Commissioner of Human Services to monitor issues relating to the contamination of drinking water by methyl tertiary-butyl ether, or MTBE, and report to the joint standing committee of the Legislature having jurisdiction over natural resources matters no later than January 1, 2000 with a recommendation on whether to retain or lower the maximum contaminant level for MTBE. The amendment proposed to give the committee authority to report out legislation to the Second Regular Session of the 119th Legislature regarding the maximum contaminant level for MTBE.

The amendment also proposed to add a fiscal note.

Committee Amendment "B" (H-994), the minority report of the Joint Standing Committee on Natural Resources, proposed to require that prior to final adoption of Chapter 231: Rules Relating to Drinking Water, a Major Substantive Rule of the Department of Human Services, the rule must be amended to establish a maximum contaminant level for methyl tertiary-butyl ether of 15 parts per billion rather than the proposed maximum contaminant level of 35 parts per billion.

The amendment proposed to require the Commissioner of Human Services to monitor issues relating to the contamination of drinking water by methyl tertiary-butyl ether, or MTBE, and report to the joint standing committee of the Legislature having jurisdiction over natural resources matters no later than January 1, 2000 with a recommendation on whether to retain or lower the maximum contaminant level for MTBE. The amendment proposed to give the committee authority to report out legislation to the Second Regular Session of the 119th Legislature regarding the maximum contaminant level for MTBE.

The amendment also proposed to add a mandate preamble and a fiscal note to the resolve. This amendment was not adopted.

Enacted law summary

Resolve 1997, chapter 114 authorizes the Department of Human Services to finally adopt rules that establish a maximum contaminant level for methyl tertiary-butyl ether of 35 parts per billion. The law also requires the Commissioner of Human Services to monitor issues relating to the contamination of drinking water by methyl tertiary-butyl ether, or MTBE, and report to the joint standing committee of the Legislature having jurisdiction over natural resources matters no later than January 1, 2000 with a recommendation on whether to retain or lower the maximum contaminant level for MTBE.

This resolve was enacted as an emergency measure effective April 3, 1998.

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
TREAT	OTP-AM	S-579
COLWELL		S-742 MICHAUD

LD 2247 proposed to provide the opportunity for municipalities considering taking over abandoned dams to petition the Department of Environmental Protection for a 180-day extension of time to complete their review of and arrangements for a takeover. It proposed to authorize, to the extent existing resources may be available, the State Planning Office to provide assistance when a takeover involves 3 or more municipalities.

Committee Amendment "A" (S-579) proposed to add a clarification to the proposal in the bill to allow a municipality to apply for an extension of the consultation period under the State's dam abandonment laws. The amendment proposed to clarify that the municipality must be one in which the dam is located. The purpose of the consultation period would be to provide time to find a new owner for a dam. The amendment also proposed to provide that the consultation period may not be extended for more than 180 days.

The amendment also proposed to require a report by the dam owner within 180 days of filing an abandonment petition that describes compliance with notice provisions. It also proposed to require a report by the dam owner within 180 days of filing, or before the end of an extension to the consultation process, describing the people who were consulted and the results of the process.

The amendment also proposed to allow the State Planning Office to provide technical assistance and grants to municipalities or regional planning organizations when municipalities are seeking ownership of a dam.

The amendment also proposed to provide an appropriation for payments to the Gardiner Water District in the event a municipality seeks an extension of the consultation period regarding the district's existing petition to abandon the New Mills Dam. The payments would be \$750 for each month the extension is in effect as partial payment for the cost of maintaining the New Mills Dam.

The amendment proposed to add a fiscal note.

Senate Amendment "A" to Committee Amendment "A" (S-742) proposed to eliminate the General Fund appropriation to the Department of Environmental Protection and the provision that required that appropriation.

Enacted law summary

Public Law 1997, chapter 789 provides the opportunity for municipalities in which a dam is located and that is considering taking over ownership of that dam to petition the Department of Environmental Protection for a 180-day extension of time to complete an agreement for a takeover. The law specifies that the consultation period relating to dam ownership may not be extended for more than 180 days. The law requires a report by the dam owner seeking release from dam ownership within 180 days of filing an abandonment petition, or before the end of an extension to the consultation process, describing the people who were consulted and the results of the consultation process.

The law also authorizes, to the extent existing resources are available, the State Planning Office to provide technical assistance and grants to municipalities or regional planning organizations when municipalities are seeking ownership of a dam. Chapter 789 was enacted as an emergency measure effective April 16, 1998.

LD 2262 An Act to Allow the Department of Environmental Protection to ONTP
Process an Application by the Ivan Davis Family for a Hydropower
Project at an Existing Dam on the St. George River

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
LONGLEY	ONTP MAJ	
PIEH	OTP MIN	

LD 2262 proposed to direct the Department of Environmental Protection to process an application to be submitted by the Ivan Davis family for the development of a hydropower project for an existing dam on the St. George River in Liberty.

LD 2265 An Act to Reduce Nonpoint Source Pollution from Existing Sources, PUBLIC 748
Amend the Shoreland Zoning Laws and Amend the Site Location of
Development Laws

<u>Sponsor(s)</u>	<u>Committee Report</u>	<u>Amendments Adopted</u>
	OTP-AM MAJ	
	ONTP MIN	H-1095

LD 2265 proposed to do the following.

1. It proposed to authorize the Maine Municipal Bond Bank to make loans from the clean water revolving loan fund to nonprofit organizations.
2. It proposed to restrict the use of fertilizer containing phosphorus on lawns and similar areas within a lake or pond watershed to 2 situations: during the initial establishment of a lawn or similar landscaped area or when a soil test indicates that phosphorus is needed to maintain healthy vegetation.
3. It proposed to extend the erosion and sedimentation control laws to projects conducted prior to July 1, 1997 that involved filling, displacing or exposing soil or other earthen materials. It proposed to require a property owner to take measures necessary to prevent unreasonable erosion beyond the project site or into a protected natural resource and to take adequate permanent stabilization measures and to maintain the site to prevent unreasonable erosion and sedimentation. These requirements would apply to property located in the watershed of a body of water most at risk from new development as of July 1, 2005 and to other property as of July 1, 2010.
4. It proposed to amend the mandatory shoreland zoning laws to require planning board approval of a written plan to mitigate nonpoint source pollution prior to a permit being issued for certain significant construction involving a structure that does not meet water setback requirements. The plan would need to provide for mitigation measures to be implemented and maintained, including stabilization to prevent erosion and sedimentation; establishment of visual screening; and modification of roofs, driveways and other nonvegetated surfaces to prevent concentrated flow of storm water runoff.

5. It also proposed to amend the mandatory shoreland zoning laws to authorize a municipality to adopt an ordinance that permits the expansion of nonconforming structures using standards different from the current 30% expansion rule. It proposed to establish standards for such expansions, including floor area and height limits, and to authorize a municipality to permit an expansion with an extra 500 square feet of floor area if the principal structure is set back at least 50 feet and a well-distributed stand of trees extends at least 50 feet inland or a written plan to establish such a buffer is approved by the planning board. The bill also proposed to define "basement" for purposes of the mandatory shoreland zoning laws.
6. It proposed to require the Department of Environmental Protection to submit several reports, with varying due dates, to the joint standing committee of the Legislature having jurisdiction over natural resources matters on the following topics: the implementation and maintenance of buffer strips along water resources, a program for identifying and upgrading substandard subsurface disposal systems and compliance with the erosion control laws. The bill also proposed to give the joint standing committee of the Legislature having jurisdiction over natural resources matters authority to report out legislation on these issues.

Committee Amendment "A" (H-1095) proposed to do the following.

1. It proposed to strike from the bill the section that would have authorized the Maine Municipal Bond Bank to make loans from the clean water revolving loan fund to nonprofit organizations.
2. It proposed to strike from the bill the section that would have restricted the use of fertilizer containing phosphorous on lawns and similar areas within a lake or pond watershed.
3. It proposed to provide that erosion and sedimentation prevention provisions apply to certain property in an organized area of the State subject to erosion of soil or sediment into a protected natural resource because of a human activity before July 1, 1997 involving filling, displacing or exposing soil or other earthen materials. The amendment proposed to require the property owner to take measures by certain dates to prevent unreasonable erosion of soil or sediment into a protected natural resource. The prevention provisions would apply on and after July 1, 2005 on property that is located in the watershed of a body of water most at risk as identified in the Department of Environmental Protection's storm water rules and that is subject to erosion of soil or sediment into a protected natural resource. The prevention provisions apply on and after July 1, 2010 on other property that is subject to erosion of soil or sediment into a protected natural resource. The erosion and sedimentation measures would not apply to agricultural fields. Forest management activities conducted in accordance with applicable standards of the Maine Land Use Regulation Commission would be deemed to comply with the erosion and sedimentation control provisions.
4. It proposed to strike from the bill a proposed mandatory shoreland zoning law requirement that a municipal planning board approve a written plan to mitigate nonpoint source pollution before the issuance of a permit for certain significant construction involving a structure that does not meet water setback requirements. It proposed to retain the provisions of the bill that amend the mandatory shoreland zoning laws to allow a municipality to adopt an ordinance that permits the expansion of nonconforming structures using standards different from the current 30% expansion rule. The amendment also proposed to add a requirement that the Department of Environmental Protection report by January 15, 2003 on how the environmental benefits of these measures compare with the 30% expansion rule.
5. It proposed to amend the site location of development laws by exempting certain development on former military bases from the traffic threshold that triggers a review of that development under the law. A

development given this exemption would be one that reuses a building and associated facilities on the former military base that was in existence on September 29, 1995.

6. It proposed to prohibit the study on nonpoint source pollution from addressing buffer strips on land used for agricultural or silvicultural purposes. It also proposed to require the study to evaluate the availability of nonphosphorous fertilizers for use on lawns and other domestic areas.

Enacted law summary

Public Law 1997, chapter 748 provides that erosion and sedimentation prevention provisions apply to certain property in an organized area of the State subject to erosion of soil or sediment into a protected natural resource because of a human activity before July 1, 1997 involving filling, displacing or exposing soil or other earthen materials. The prevention provisions apply on and after July 1, 2005 on property that is located in the watershed of a body of water most at risk as identified in the Department of Environmental Protection's storm water rules and that is subject to erosion of soil or sediment into a protected natural resource. The prevention provisions apply on and after July 1, 2010 on other property that is subject to erosion of soil or sediment into a protected natural resource.

The law amends the mandatory shoreland zoning laws to authorize a municipality to adopt an ordinance that permits the expansion of nonconforming structures using standards different from the current 30% expansion rule. It establishes standards for such expansions, including floor area and height limits, and authorizes a municipality to permit an expansion with an extra 500 square feet of floor area if the principal structure is set back at least 50 feet and a well-distributed stand of trees extends at least 50 feet inland or a written plan to establish such a buffer is approved by the planning board.

The law amends the site location of development laws to exempt certain development on former military bases from the traffic threshold that triggers a review of that development under the law. A development given this exemption is one that reuses a building and associated facilities on the former military base that was in existence on September 29, 1995.

The law requires the Department of Environmental Protection to submit several reports on nonpoint source pollution, erosion control and shoreland zoning.

LD 2269

An Act to Reduce Mercury Use and Emissions

PUBLIC 722

Sponsor(s)
RUHLIN
ROWE

Committee Report
OTP-AM

Amendments Adopted
S-643

LD 2269 proposed to make the following changes to the laws governing mercury use and emissions.

1. It proposed to amend the provisions of law governing the discharge of mercury by a person, firm, corporation or other legal entity that on January 1, 1971 was discharging mercury in connection with an industrial process by providing that after January 1, 2000 such a discharge must be less than one pound per year and after January 1, 2002 such a discharge must be less than 4.5 grams per year. These provisions would be repealed January 1, 2004. After January 1, 2004, the current general provision of law that prohibits the discharge of

mercury and any compound containing mercury in any concentration that increases the natural concentration of mercury in the receiving waters would apply.

2. It proposed to require that the Board of Environmental Protection affirmatively find that a facility using mercury in its industrial process has operated and will operate in compliance with applicable environmental requirements or the facility may not operate after April 1, 2000.
3. It proposed to provide that an air emission source may not emit mercury in excess of 100 pounds per year after January 1, 2000 and 50 pounds per year after January 1, 2004.
4. It proposed to provide that any industrial manufacturing source that uses 1000 pounds or more of mercury in a year in its manufacturing process, using 1998 as a baseline figure, must reduce mercury use by 10% no later than January 1, 2002, 20% no later than January 1, 2004 and 30% no later than January 1, 2006. Failure to achieve these reductions could trigger the penalties specified in the environmental protection laws.
5. It proposed to direct the Land and Water Resources Council to establish a process to identify economic development opportunities consistent with the special status of the lower Penobscot River.

Committee Amendment "A" (S-643) proposed to do the following.

It proposed to change the mercury discharge limit for a facility that on January 1, 1971 was discharging mercury in connection with an industrial process by maintaining the provision in the bill that requires the discharge to be less than one pound per year after January 1, 2000 and amending the bill to require the discharge to be less than 1/10 of a pound after January 1, 2002. It proposed to maintain the provision in the bill that would allow no discharge from such a facility after January 1, 2004 that increases the natural concentration of mercury in the receiving waters.

It proposed to strike from the bill the provision requiring an affirmative determination by the Board of Environmental Protection that a facility using mercury in its industrial process has operated and will operate in substantial compliance with environmental requirements or the facility must discontinue its use of mercury after April 1, 2000.

It proposed to amend the provision in the bill that establishes air emission limits to allow an air emission source to apply to the board for a 6-month extension of the January 1, 2004 deadline for limiting mercury emissions to 50 pounds per year or to apply to the board for a license modification establishing an alternative emission limit for mercury. It proposed to require the board to grant such a license modification if it finds that the proposed limit meets the most stringent emission limitation that is achievable and compatible with the class of source, considering economic feasibility. The amendment also proposed to extend the compliance date for the 100-pound emissions limit to December 19, 2000 for a resource recovery facility that is subject to an emissions limit for mercury that is adopted by rule by the board.

The amendment proposed to strike from the bill the provision requiring toxics use reductions for mercury.

The amendment proposed to require the Land and Water Resources Council to submit a report and implementing legislation by January 1, 1999 to the joint standing committee of the Legislature having jurisdiction over natural resources matters on issues relating to mercury-added products sold in the State.

The amendment also proposed to require the Department of Environmental Protection to submit a report by February 1, 1999 to the joint standing committee of the Legislature having jurisdiction over natural resources matters on compliance with the water quality standards for mercury, the results of effluent testing using more

refined testing protocols and the status of approval of those protocols and the levels of natural concentrations of mercury in receiving waters.

Enacted law summary

Public Law 1997, chapter 722 amends the provisions of law governing the discharge of mercury by a person, firm, corporation or other legal entity that on January 1, 1971 was discharging mercury in connection with an industrial process by providing that after January 1, 2000 such a discharge must be less than one pound per year and after January 1, 2002 such a discharge must be less than 1/10 of a pound per year. These provisions are repealed January 1, 2004, when the current general provision of law that prohibits the discharge of mercury and any compound containing mercury in any concentration that increases the natural concentration of mercury in the receiving waters applies.

The law provides that an air emission source may not emit mercury in excess of 100 pounds per year after January 1, 2000 and 50 pounds per year after January 1, 2004. It allows an air emission source to apply to the board for a 6-month extension of the January 1, 2004 deadline or to apply to the board for a license modification establishing an alternative emission limit for mercury. It requires the board to grant such a license modification if it finds that the proposed limit meets the most stringent emission limitation that is achievable and compatible with the class of source, considering economic feasibility. The law also extends the compliance date for the 100-pound emissions limit to December 19, 2000 for a resource recovery facility that is subject to an emissions limit for mercury that is adopted by rule by the board.

The law directs the Land and Water Resources Council to establish a process to identify economic development opportunities consistent with the special status of the lower Penobscot River. It also requires the Land and Water Resources Council to submit a report and implementing legislation by January 1, 1999 on issues relating to mercury-added products sold in the State.

The law also requires the Department of Environmental Protection to submit a report by February 1, 1999 on compliance with the water quality standards for mercury, the results of effluent testing using more refined testing protocols and the status of approval of those protocols and the levels of natural concentrations of mercury in receiving waters.